IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

CRP.No. 1055 of 2005()

AGAINST THE ORDER DATED 15/06/2005 IN EP.25/04 IN OS.367/2000 of PRL.M.C.KOZHIKODE-I
.....

REVN. PETITIONER: PETITIONER/PLAINTIFF:

T.V. SULAIKHA, W/O. MUHAMMED,
`JASEENA MAHAL', P.O. CHELANNUR,
THAMARASSERY AMSOM DESOM, KOZHIKODE.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)

RESPONDENT/RESPONDENT: DEFENDANT:

MADATHIL PURAYIL SURESH,
S/O. KRISHNAN NAIR, P.O. CHELANNUR,
THAMARASSERY AMSOM DESOM, KOZHIKODE.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1055 OF 2005

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Dated this the 27th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Court below whereby an application under Order 21 Rule 32 was rejected. The Court below found that the decree holder was not examined and only the husband was examined. The Court also found that no reasonable explanation is given for non-examination of the decree holder. The Court held that no independent witnesses had been examined to prove the act.

2. I had carefully gone through the order passed by the Court below as well as the execution petition. When an application is filed for punishment under Order 21 Rule 32 it has got the clippings of a criminal trial and direct evidence is necessary. Averments in the petition are absolutely silent about who was present, who obstructed and who are the witnesses to the act complained of. It is further averred in the petition that they went to the property for maintaining the coconut trees, the defendant attempted to interfere with

it and the workers were sent away. When questioned why the workers are not examined, the reply comes that they are from Tamil Nadu and therefore they are not available. There is no mention in the execution petition about the presence of the husband at the time of the alleged violation of the decree. The evidence furnished by the decree holder is far from satisfactory to hold a person liable for violation of the decree which invites imprisonment. Therefore, I find that the Court below was right in holding that the evidence is not sufficient and therefore the C.R.P. is dismissed.

M.N. KRISHNAN, JUDGE.

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